

HOUSE BILL 261

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EMERGENCY BILL

2lr2172

By: **Delegates Vallario, McDermott, Anderson, Dumais, Glenn, K. Kelly, Simmons, Smigiel, Valentino-Smith, and Wilson**

Introduced and read first time: January 27, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Office of the Public Defender – Representation**

3 FOR the purpose of repealing the requirement that the Office of the Public Defender
4 provide representation to a certain indigent individual in all stages of a certain
5 proceeding; altering the specific events in which the Office of the Public
6 Defender is required to represent indigent individuals in criminal proceedings;
7 providing that a certain provision of law may not be construed to require
8 representation by the Office of the Public Defender at a certain initial
9 appearance; making this Act an emergency measure; and generally relating to
10 representation by the Office of the Public Defender.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 16–204
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Criminal Procedure**

19 16–204.

20 (a) Representation of an indigent individual may be provided in accordance
21 with this title by the Public Defender or, subject to the supervision of the Public
22 Defender, by the deputy public defender, district public defenders, assistant public
23 defenders, or panel attorneys.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Indigent defendants or parties shall be provided representation
2 under this title in:

3 (i) a criminal or juvenile proceeding in which a defendant or
4 party is alleged to have committed a serious offense;

5 (ii) a criminal or juvenile proceeding in which an attorney is
6 constitutionally required to be present prior to presentment being made before a
7 commissioner or judge;

8 (iii) a postconviction proceeding for which the defendant has a
9 right to an attorney under Title 7 of this article;

10 (iv) any other proceeding in which confinement under a judicial
11 commitment of an individual in a public or private institution may result;

12 (v) a proceeding involving children in need of assistance under §
13 3-813 of the Courts Article; or

14 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or
15 Part III of the Family Law Article, including:

16 1. for a parent, a hearing in connection with
17 guardianship or adoption;

18 2. a hearing under § 5-326 of the Family Law Article for
19 which the parent has not waived the right to notice; and

20 3. an appeal.

21 (2) (I) Representation shall be provided to an indigent individual in
22 [all stages of] a proceeding listed in paragraph (1) of this subsection, including, in
23 criminal proceedings, [custody, interrogation,] AT BAIL REVIEW, preliminary hearing,
24 arraignment, trial, and appeal.

25 (II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO
26 REQUIRE REPRESENTATION AT AN INITIAL APPEARANCE IN DISTRICT COURT
27 OR CIRCUIT COURT UNDER MARYLAND RULE 4-213.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
29 measure, is necessary for the immediate preservation of the public health or safety,
30 has been passed by a ye and nay vote supported by three-fifths of all the members
31 elected to each of the two Houses of the General Assembly, and shall take effect from
32 the date it is enacted.